



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 00130-99

27 May 1999

SC [REDACTED] SMC

Dear Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 May 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 30 December 1998, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
DEC 30 1998

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
SERGEANT [REDACTED], USMC

Ref: (a) Sergeant [REDACTED]' DD Form 149 of 27 Oct 98
(b) MCO P1610.7D w/Ch 1

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 29 December 1998 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 960301 to 970107 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner believes the report is unjust or inconsistent and challenges the marks of "above average" in items 14d (attention to duty), 14f (initiative), and 14j (leadership). To support his appeal, the petitioner furnishes his own statement and provides a copy of his Master Brief Sheet to demonstrate the inconsistency between the challenged fitness report and others throughout his career.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Contrary to what the petitioner may believe, the comments in Section C of the report do not somehow justify or warrant marks of "excellent" in the challenged areas. Likewise, the Board discerns absolutely no inconsistency between any of the ratings assigned in Section B and the narrative comments in Section C.

b. To justify amendment or deletion of a fitness report, evidence of error or injustice should be produced. Such is simply not the situation in the case; nor has the petitioner provided any material documentation to show precisely how he may have rated more than what has been recorded.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Sergeant [REDACTED] official military record.

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5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps